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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,587	01/25/2005	Stephen Currid	232.7548USU	2546
7590		05/16/2007		
Paul Greeley Ohlandt Greeley Ruggiero & Perle One Landmark Square 10 th Floor Stamford, CT 06901-2682				
			EXAMINER	
			KRISHNAMURTHY, RAMESH	
			ART UNIT	PAPER NUMBER
			3753	
			MAIL DATE	DELIVERY MODE
			05/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/089,587

**Applicant(s)**

CURRID, STEPHEN

**Examiner**

Ramesh Krishnamurthy

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 5, 8, 9 and 11 - 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1 - 4 and 11 - 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

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This office action is responsive to communications filed April 12, 2007.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 12, 2007 has been entered.

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

It is noted that the instant declaration uses "examination" in place of "patentability" in connection with duty to disclose statement.

**Claims 1 – 5, 8, 9 and 11 – 14 are pending.**

3. Claims 1 – 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation "the body portion" in lines 20 - 21. There is insufficient antecedent basis for this limitation in the claim.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara et al. (GB 2,296,309 A).

O'Hara et al. discloses (Figs. 1 - 5) a non-return device comprising: Flexible impervious wall members (7,9) having complementary shapes; a support (13, 14) holding said wall members spaced apart at an upstream or inlet end (near (12)); wherein the device comprises a tubular body portion (3) surrounding the wall members. O'Hara et al. discloses (page 4, lines 1 – 2 of the second paragraph) that the thickness of the wall member is less than 1 millimeter. Official notice is taken that to provide a width so that the thickness in the range of 0.3 % to 3 % of the width is a design expedient over those features disclosed in O'Hara et al. in that it neither provides any new and/or unexpected result nor solves any stated problem. The different widths merely relate to use of the valve in waste outlets of different sizes.

7. Claims 1 – 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara et al. as applied to claims 11 - 13 above, and further in view of BE 669,967.

The patent to O'Hara et al. discloses the claimed invention with the exception of explicitly disclosing a tubular outlet portion extending from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes.

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The document BE '967 discloses (Figs. 1, 2) a non-return device wherein a tubular outlet portion (9) extending from the outlet end of a tubular portion (2) to have a diameter different therefrom with radially offset axes, thereby providing a desired flow through the device.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in O'Hara et al. a tubular outlet portion extending from the outlet end of the tubular portion to have a diameter different therefrom with radially offset axes, for the purpose of providing a desired flow through the device.

It is noted that in BE'967 the outlet portion's (near (9)) radius is indeed smaller than at the upstream end (near (14)) and that a wall portion of the housing is congruous with the wall portion of the outlet end so as to define a generally uninterrupted flow surface for discharging fluid.

8. Claims 5, 8 and 9 are allowed.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims rejected above have been considered but are moot in view of the new ground(s) of rejection.

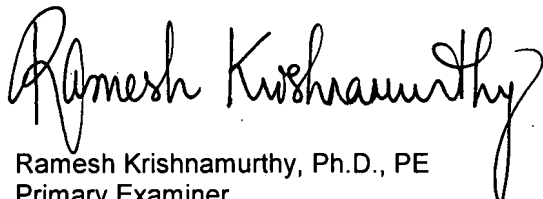
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 - 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 - 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.

Ramesh Krishnamurthy, Ph.D., PE  
Primary Examiner  
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